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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/667,449

09/23/2003

Lina Strand Backman

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EXAMINER

DANNEMAN, PAUL

ART UNIT

PAPER NUMBER

3627

NOTIFICATION DATE

DELIVERY MODE

01/31/2008

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary	Application No. 10/667,449	Applicant(s) BACKMAN, LINA STRAND	
	Examiner PAUL DANNEMAN	Art Unit 3627	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 September 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 23 September 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>23 September 2003</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Status of Claims

1. This action is in response to the application filed on 23 September 2003.
2. Claims 1-20 have been examined.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

5. **Claims 1-2, 5-7, 10-11, and 14-18** rejected under 35 U.S.C. 103(a) as being unpatentable over Jain et al., US2003/0195793, henceforth known as Jain.

6. **Examiner's note:** Examiner has pointed out particular references contained in the prior art of record in the body of this action for the convenience of the Applicant. Although the specified citations are representative of the teachings in the art and are applied to the specific limitations within the individual claim, other passages and figures may apply. Applicant, in preparing the response, should consider fully the **entire** reference as potentially teaching all or part of the claimed invention, as well as the content of the passage as taught by the prior art or disclosed by the Examiner.

Claims 1-2, 10-11, and 14-18:

- ***Identifying and informing the potential customer of a new product.***
- ***Presenting to potential consumer a visual of a first product.***
- ***Presenting to potential consumer a visual of a similar product.***
- ***Modifying visual of first product to appear like the similar product.***

Jain in at least paragraph [0023 and 0092] discloses the deployment of a computerized marketing research activity tool that adaptively adjusts the number and selection of participants and dynamically adjusts the marketing research activity in a manner that will maximize the value of the information and minimize the cost of the information collected from the participants. Jain does not specifically disclose presenting visual images of a product per se. However, Jain in at least paragraph [0173] discloses the use of product comparisons to personalize the information presented to potential consumers and in Table 2 discloses using an advertisement of a similar product or the new product to determine a potential consumer's inclination to buy the product. Therefore, it would be obvious, at the time of invention, to one of ordinary skill in the art, to determine that the presentation of an advertisement of the similar product or the new product is equivalent to Applicant's presentation of a visual.

Claims 5-7:

- ***Identifying a panel of people;***
- ***Presenting to a panelist a visual of a first known tangible product.***
- ***Presenting a visual of a second product.***
- ***Presenting an intermediate product with characteristics of first and second product.***
- ***Surveying a panelist on impressions of the products and their associated features.***

Jain in at least paragraph [0001] discloses an invention that automates the design of Marketing Research including one or more research approaches, e.g., marketing experiments, surveys,

interviews, focus group discussions and the like. Jain in at least paragraph [0149 and 0173] discloses personalizing the Research Approach Design Tool by modifying the research design, i.e., the experiment, the survey questionnaire to suit an individual customer to maximize the value of the information obtained from a customer. Jain does not specifically disclose presenting visual images of a product per se. However, Jain in at least paragraph [0173] further discloses the use of product comparisons to personalize the information presented to potential consumers and in Table 2 discloses using an advertisement of a similar product or the new product to determine a potential consumer's inclination to buy the product. Therefore, it would be obvious, at the time of invention, to one of ordinary skill in the art, to determine that the selection of a panel of people is similar to setting up a focus group and the presentation of an advertisement of a similar product or the new product is equivalent to Applicant's presentation of a visual.

7. **Claims 3-4, 8-9, 12-13, and 19-20** are rejected under 35 U.S.C. 103(a) as being unpatentable over Jain as applied to claims 1-2, 10-11, and 17-18 above, and further in view of Zawilinski, US 5,676,138..

Claims 3-4, 8-9, 12-13, and 19-20:

- ***Visual presentation is still images.***
- ***Visual presentation is moving images.***

Zawilinski in at least Column 3, lines 28-62 discloses a computerized multimedia system for measuring, analyzing, storing, and displaying emotional responses elicited by humans when presented a stimulus such as a television commercial. Zawilinski in at least Column 5, lines 63-67 further discloses that the interactive multimedia computer is capable of at least visually displaying one stimulus presented at any given time interval. Zawilinski does not specifically disclose still images per se, however in at least Fig. 2 and Column 6, lines 36-42 discloses a representative screen with the stimulus. Therefore, it would be obvious, at the time of the invention, to one of ordinary skill to be motivated to combine Jain's marketing research activity

with Zawilinski's multimedia stimuli and response analyzer to obtain a better indicator of a customer's response to various products or their features.

Conclusion

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to PAUL DANNEMAN whose telephone number is (571)270-1863. The examiner can normally be reached on Mon.-Thurs. 6AM-5PM Fri. off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Florian Zeender can be reached on 571-272-6790. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Paul Danneman/

Examiner, Art Unit 3627

23 January 2008

/F. Ryan Zeender/

Supervisory Patent Examiner, Art Unit 3627